

a primary election, or a caucus or convention of a political party.

(b) The term “candidate” means an individual (1) whose name is printed on the official ballot for election to the House of Representatives of the United States, or (2) notwithstanding his name is not printed on such ballot, who seeks election to the House of Representatives by write-in votes, provided that he is qualified for such office and that, under the law of the State in which the congressional district is located, write-in voting for such office is permitted and he is eligible to receive write-in votes in such election.

(c) The term “contestant” means an individual who contests the election of a Member of the House of Representatives of the United States under this chapter.

(d) The term “contestee” means a Member of the House of Representatives of the United States whose election is contested under this chapter.

(e) The term “Member” means an incumbent Representative in or Resident Commissioner to the Congress of the United States, or an individual who has been elected to either of such offices but has not taken the oath of office.

(f) The term “Clerk” means the Clerk of the House of Representatives of the United States.

(g) The term “committee” means the Committee on House Administration of the House of Representatives of the United States.

(h) The term “State” includes territory and possession of the United States.

(i) The term “write-in vote” means a vote cast for a person whose name does not appear on the official ballot by writing in the name of such person on such ballot or by any other method prescribed by the law of the State in which the election is held.

(Pub. L. 91-138, § 2, Dec. 5, 1969, 83 Stat. 284.)

#### CHANGE OF NAME

Committee on House Administration of House of Representatives changed to Committee on House Oversight of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

#### EFFECTIVE DATE

Section 19 of Pub. L. 91-138 provided that: “The provisions of, and the repeals made by, this Act [enacting this chapter and repealing sections 201 to 226 of this title] shall apply with respect to any general or special election for Representative in, or Resident Commissioner to, the Congress of the United States occurring after the date of enactment of this Act [Dec. 5, 1969].”

#### SHORT TITLE

Section 1 of Pub. L. 91-138 provided that: “This Act [enacting this chapter and repealing sections 201 to 226 of this title] may be cited as the ‘Federal Contested Elections Act’.”

### § 382. Notice of contest

#### (a) Filing of notice

Whoever, having been a candidate for election to the House of Representatives in the last preceding election and claiming a right to such office, intends to contest the election of a Member of the House of Representatives, shall, within thirty days after the result of such election shall have been declared by the officer of Board

of Canvassers authorized by law to declare such result, file with the Clerk and serve upon the contestee written notice of his intention to contest such election.

#### (b) Contents and form of notice

Such notice shall state with particularity the grounds upon which contestant contests the election and shall state that an answer thereto must be served upon contestant under section 383 of this title within thirty days after service of such notice. Such notice shall be signed by contestant and verified by his oath or affirmation.

#### (c) Service of notice; proof of service

Service of the notice of contest upon contestee shall be made as follows:

(1) by delivering a copy to him personally;

(2) by leaving a copy at his dwelling house or usual place of abode with a person of discretion not less than sixteen years of age then residing therein;

(3) by leaving a copy at his principal office or place of business with some person then in charge thereof;

(4) by delivering a copy to an agent authorized by appointment to receive service of such notice; or<sup>1</sup>

(5) by mailing a copy by registered or certified mail addressed to contestee at his residence or principal office or place of business. Service by mail is complete upon mailing;<sup>1</sup>

(6) the verified return by the person so serving such notice, setting forth the time and manner of such service shall be proof of same, and the return post office receipt shall be proof of the service of said notice mailed by registered or certified mail as aforesaid. Proof of service shall be made to the Clerk promptly and in any event within the time during which the contestee must answer the notice of contest. Failure to make proof of service does not affect the validity of the service.

(Pub. L. 91-138, § 3, Dec. 5, 1969, 83 Stat. 284.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 383, 394 of this title.

### § 383. Response of contestee

#### (a) Answer

Any contestee upon whom a notice of contest as described in section 382 of this title shall be served, shall, within thirty days after the service thereof, serve upon contestant a written answer to such notice, admitting or denying the averments upon which contestant relies. If contestee is without knowledge or information sufficient to form a belief as to the truth of an averment, he shall so state and this shall have the effect of a denial. Such answer shall set forth affirmatively any other defenses, in law or fact, on which contestee relies. Contestee shall sign and verify such answer by oath or affirmation.

#### (b) Defenses by motion prior to answer

At the option of contestee, the following defenses may be made by motion served upon contestant prior to contestee’s answer:

<sup>1</sup> So in original. The “or” at the end of cl. (4) probably should appear at the end of cl. (5).